Range Use Near Midway, BC

Complaint Investigation 000238

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The Investigation

The complainant has operated a woodlot on his land near Midway, 60 kilometres east of Osoyoos, for 30 years. For the last 15 years, the woodlot has included 600 hectares of Crown land. The complainant is a professional forester and professional agrologist and is proud of managing the private and Crown land of the woodlot in what he considers to be an environmentally sensitive way. On and around the Crown land portion of his woodlot, neighbouring ranchers hold grazing licenses, with livestock use regulated under range use plans.

In 1998 and 1999, the Ministry of Forests staff took short-term enforcement actions against the complainant for administrative matters related to his woodlot. In response, the complainant filed a complaint with the Board asserting poor government management of range resources. In this report, the Board considers the adequacy of range use plans near the woodlot to manage and conserve forest and range resources.[1]

Investigation Findings

The complainant's woodlot is located in the Ingram/Boundary Range Unit. The range area is primarily in the interior Douglas-fir biogeoclimatic zone and has warm, dry summers. The dryness affects livestock use patterns because upland areas have little or no available water for much of the grazing season. That creates difficulty in keeping cattle distributed over the range. Cattle tend to drift down to creeks and stay in the cool, grassy, timbered areas along those creeks. That creates deeply incised trails and overgrazing[2] on lower slopes and along the creeks themselves.

The range unit is divided into five pastures that are jointly used by three local ranchers. Each rancher has signed a range use plan that describes proposed levels of use through grazing schedules that detail livestock numbers and nature and duration of use. The plans also describe forest practices[3] and actions required to meet objectives for integrated resource management.

Section 53 of the *Operational Planning Regulation* requires that range use plans include "information... sufficient to permit adequate assessment of the area's forest resources and proposed range practices to be carried out on the range land." In other words, range use plans must have enough information to allow the public and district manager to assess whether planned range uses will adequately manage and conserve all forest resources.

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1 There is no distinction in the Code (*Forest Practices Code of British Columbia Act* and related regulations) between forest resources and range resources. Instead, "forest resources" is defined to be resources and values associated with both forests and range, including forage, water, wildlife, recreation, fisheries, biological diversity and timber.

2 Continued heavy grazing that exceeds the recovery capacity of a plant community and creates a deteriorated range.

3 Grazing is a forest practice as defined in section 1 of the *Forest Practices Code of British Columbia Act* (the Act).

The district manager, when approving range use plans, must be satisfied that the plans were prepared and submitted in accordance with the *Forest Practices Code of British Columbia Act* and related regulations (the Code)[4], including the content requirements of the Code. The Code requires that a range use plan include the following information:

- a description of the grazing activities that will be carried out
- range developments (structures, excavations, or trails for management of range land or livestock, plus practices to improve range conditions or range use such as salting and herding) that will be constructed or carried out
- map and/or site descriptions of natural features, boundaries, and developments
- plant community descriptions and strategies
- descriptions of resource values and strategies
- grazing schedule and livestock management plan
- signatures of the range agreement holder and the district manager

In addition to content, a number of issues must be addressed[5] in a range use plan, including:

- strategies to maintain existing plant communities and to achieve desired ones
- proposed range developments
- minimizing damage to trees
- strategies for livestock management in riparian areas (i.e., areas adjacent to a stream, river, lake or wetland)
- strategies to limit soil surface erosion, prevent destabilization of streambanks and limit sedimentation of streams

The district range planner and range officer used a checklist to identify, for the district manager, whether each of three range use plans that cover the Ingram/Boundary Range Unit complied with the Code's content requirements. Board staff confirmed that each contained information about every matter required by the Code.

Finding #1

The three range use plans for the Crown range that surrounds the complainant's woodlot each complied with the content requirements of the Code.

The complainant was concerned about the enforceability of the plans. More specifically, he asserted that the range use plans were written in such broad, permissive language that they could not be effectively enforced to protect range resources. In support of his concern, he

[4] Section 41(1)(a) of the Act.

[5] *Operational Planning Regulation*, section 53.

described his observations of livestock damage to Ingram Creek, indications of overgrazing on several pastures and wide distribution of noxious weeds.

The range use plans had strategies to deal with such problems. The plans noted that "riparian areas within the drier, hotter pastures will experience greater cattle impacts." There were conditions to reduce impacts in riparian areas such as Ingram Creek. Salt blocks could not be placed within 400 metres of streams. Motor vehicles had to remain more than five metres from a stream unless on an existing road surface. The plans provided that any new water developments were to be located to draw cattle away from water course/riparian areas. The plans also included measures to replant cattle-eroded stream banks if the strategies to reduce livestock impacts were ineffective. The plans included strategies to achieve desired plant communities. To minimize soil compaction by livestock, cattle were not to be turned out until soils were dry. Salt locations would be in rocky areas, not open pasture. There were provisions to broadcast burn some open range areas in the spring.

District staff said that strategies needed to be flexible. They described rigid requirements such as arbitrary pre-selected dates as a "formula for failure." Factors such as the timing of cattle turnout and duration of grazing should reflect specific local conditions that would vary from season to season and year to year depending upon annual precipitation and other influences.

Overall, the management strategies in the plans were cursory and imprecise, making it difficult to assess compliance. However, the range use plans in the Ingram/Boundary range unit did describe how most objectives were to be achieved, even though they did so in a general and flexible manner, rather than as firm conditions.

Finding #2

The range use plans each included management strategies and conditions to protect range resources, although many were written as flexible suggestions rather than formal requirements.

The complainant maintained that, despite the terms and conditions in the range use plans, livestock were damaging range resources in several of the pastures. During site visits in July and October 2000, he pointed out two sites on Ingram Creek that had been trampled by cattle. At one site, streamside vegetation had been eliminated and some debris pushed into a culvert. At the other, there was heavy livestock utilization of vegetation and some sloughing of the stream banks. Some cattle were still on a pasture from which they should have been moved according to the range use plans. Cattle had collected for a long period and over-utilized a corner of one pasture. The complainant pointed out various noxious weeds and expressed concerns about the effectiveness of weed control activities on the ranges. Finally, he described having found saltblocks located closer than 400 metres from creeks, the limit allowed in the range use plans.

There were localized problems in preventing cattle from over-utilizing some parts of the pasture. Nevertheless, an agrologist hired by the Board concluded that the Ingram/Boundary range unit is in a similar condition to many others in the southern interior of the province. Noxious weeds, in particular knapweed and hounds-tongue, have become a major problem that

may well persist indefinitely. However, the rotational grazing program for the unit, involving a cycle of livestock movement through elevational changes during the grazing season, is controlling livestock impact on the range. There continue to be localized overgrazing and impacts on riparian areas, but those impacts are low to moderate when considered over the entire range unit.

Finding #3

The pastures in the Boundary/Ingram range unit show localized impacts of over-utilization by livestock, but such impacts are low to moderate over the range unit. Those impacts do not prevent the adequate management and conservation of forest and range resources in the area of the approved range use plans.

Public concerns about the effectiveness of range use plans can be conveyed to those who prepare such plans through the Code's public review and comment requirements. Although other operational plans, such as forest development plans, are made available for public review every year, range use plans are only available for review before approval and then not again until after they expire. Range use plans could, at the time of this complaint, be in effect for up to five years, but legislative changes will allow terms of up to ten years with the next renewal.[6]

The complainant had pointed out some concerns directly to Ministry of Forests district staff on site. However, he did not take advantage of the public review and comment period that allows members of the public, such as himself, to express concerns about the adequacy of the range use plans. Two of the range use plans were advertised at the beginning of March 2000. The complainant received copies of both from the district range planner but made no formal comment. No formal written comments were made on the plans by anyone except two forest companies who had concerns about cattle impacts on young plantations.

Finding #4

The range use plans were made available for public review and comment, but neither the complainant nor any other member of the public provided written concerns about the management of range resources during that process.

[6] Section 27(6) of the Act provides that range use plan terms expire on the earlier of expiry of the associated *Range Act* tenure or ten years. That section was amended in June 2000 to allow range use plans to have a maximum term of ten years rather than five.

Section 41 of the Act sets the conditions under which a district manager can approve a range use plan. There are two conditions. A district manager must determine that the range use plan was prepared and submitted in accordance with the Act and regulations. The district manager must also be satisfied that the range use plan will adequately manage and conserve the forest resources of the plan area.

The plans had the content required by the Code. In deciding whether the plans were adequate to manage and conserve forest resources, the district manager relied on recommendations from his staff to identify possible resource management and conservation problems. He also considered comments from other resource agencies and the public. District staff advised him that the range use plans reflected adequate range management practices. No one provided contrary information, so the district manager accepted staff advice, decided that the plans would adequately manage and conserve range resources, and approved them.

The Board expects that major concerns about conservation of range resources would have emerged either from the public review and comment process or in response to referral of range use plans to other resource agencies. Given that no concerns were expressed, the Board accepts that it was reasonable for the district manager, in these circumstances, to decide that the plans were adequate to manage and conserve range resources. Accordingly, it was reasonable to approve the range use plans.

Finding # 5

The district manager's approval of the range use plans as adequate to manage and conserve range resources was reasonable.

Conclusion

Although the complainant was able to show localized impacts of over-utilization of the range by livestock, the complaint about poor management of range resources was not substantiated. The range use plans, as approved, complied with the Code and were adequate to manage and conserve forest and range resources. However, the Board has some concerns about the soundness of range management generally. Those concerns are discussed in the next section.

Commentary

Most Crown range is under forest cover, but actual grasslands, with no or very sparse forest cover, are rare in BC. About 70 percent of the province's grasslands are on private lands concentrated in valley and mid elevation areas. Crown range that consists of grasslands requires thorough and careful management and conservation of range resources.

In the circumstances of this complaint, the local range management practices appeared to follow standard provincial practices. However, those management practices raise some concerns for the Board. The preparation, public review and enforceability of range use plans appear to be

much less comprehensive than the Code contemplates. Government, not the holders of grazing licences, carried out the assessments and collected and analyzed the data required to prepare the range use plans. Government, not the holders of grazing licences, prepared the plans and put them out for public review and comment. Those practices, while standard, are not what the Code describes. The Code contemplates a comprehensive range management plan, not just a livestock use plan. The Board also has concerns about government's monitoring of range condition. District staff confirmed that baseline range condition data are no longer being collected by government.

The Board, thus, has concerns about the adequacy of provincial management and conservation of range resources. Although those concerns could not fairly be examined within the restricted scope of this complaint, the Board appreciates the complainant bringing the concerns and issues to the attention of the Board.

Location of Midway Range Complaint